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**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

Bruce Alexander Von Herzön, M.D.

File No. 10-1998-89472

**Physician's and Surgeon's
Certificate No. G-28992**

Respondent

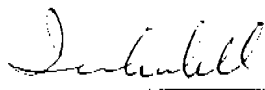
DECISION

The attached Stipulation for Surrender of License is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on May 16, 2000.

IT IS SO ORDERED May 9, 2000.

MEDICAL BOARD OF CALIFORNIA

**By: 
IRA LUBELL, M.D.
Chair, Panel A
Division of Medical Quality**

BILL LOCKYER, Attorney General
of the State of California
SANFORD H. FELDMAN,
Deputy Attorney General
Bar No. 47775
California Department of Justice
110 West A Street, Suite 1100
Post Office Box 85266
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Attorneys for Complainant

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation)	
Against:)	Case No. 10-98-89472
BRUCE ALEXANDER VON HERZEN, MD.)	STIPULATION FOR
33911 Via De Agua)	SURRENDER OF LICENSE
San Juan Capistrano, CA 92675)	
Physician's and Surgeons's)	
Certificate No. G 28992)	
Respondent.)	

Complainant, Ron Joseph, Executive Director of the
Medical Board of California ("Board"), by and through his
attorney, Bill Lockyer, Attorney General of the State of
California, by Sanford Feldman, Deputy Attorney General, and
Bruce Alexander Von Herzen, M.D. ("respondent"), by and through
his attorney, William R. Winship, hereby stipulate as follows:

1. Respondent has received and read the Accusation
which is presently on file and pending in Case No. 10-98-89472
before the Division of Medical Quality of the Board ("Division").

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1 2. Respondent understands the nature of the charges
2 alleged in the Accusation and that, if proven at hearing, such
3 charges and allegations would constitute cause for imposing
4 discipline upon respondent's license issued by the Board.

5 3. Respondent is aware of each of his rights,
6 including the right to a hearing on the charges and allegations,
7 the right to confront and cross-examine witnesses who would
8 testify against respondent, the right to testify and present
9 evidence on his own behalf, as well as to the issuance of
10 subpoenas to compel the attendance of witnesses and the
11 production of documents, the right to contest the charges and
12 allegations, and other rights which are accorded respondent
13 pursuant to the California Administrative Procedure Act (Gov.
14 Code, § 11500 et seq.) and other applicable laws, including the
15 right to seek reconsideration, review by the superior court, and
16 appellate review.

17 4. Respondent has discussed the foregoing with his
18 counsel and freely and voluntarily waives each and every one of
19 the rights set forth in paragraph 3.

20 5. For the purpose of resolving Accusation No.
21 10-98-89472, respondent agrees that, at a hearing, complainant
22 could establish a factual basis for the charges in the
23 Accusation. Respondent hereby gives up his right to contest that
24 cause for discipline exists based on those charges and agrees to
25 be bound by the Division's disciplinary order as set forth below.

26 6. Respondent understands that by signing this
27 Stipulation he is enabling the Division to issue its order

1 accepting the surrender of his license without further process.
2 He understands and agrees that Board staff and counsel for
3 complainant may communicate directly with the Division regarding
4 this Stipulation, without notice to or participation by
5 respondent. The Division will not be disqualified from further
6 action in this matter by virtue of its consideration of this
7 Stipulation. In the event that this Stipulation is rejected for
8 any reason by the Division, it will be of no force or effect for
9 either party except for this paragraph.

10 7. Upon acceptance of this Stipulation by the
11 Division, respondent agrees to cause to be delivered to the
12 Division both his licenses and wallet certificate before the
13 effective date of the Decision. Respondent further understands
14 that, on or after the effective date of this Decision, he will no
15 longer be permitted to practice as a physician and surgeon in
16 California.

17 8. Respondent understands and agrees that if he ever
18 files an application for relicensure or reinstatement in the
19 State of California, the Division shall treat it as a petition
20 for reinstatement and respondent must comply with all laws,
21 regulations and procedures for reinstatement of a revoked license
22 in effect at the time the petition is filed.

23 9. Respondent understands and agrees that if he ever
24 files an application for relicensure or reinstatement, all of the
25 allegations and charges in the Accusation will be deemed true and
26 correct and respondent will reimburse the Division the amount of
27 \$1,699.25 as the costs of investigation and prosecution of this

1 matter. Unless otherwise agreed by the Division, such
2 reimbursement shall be paid in full prior to the processing of
3 the application for relicensure or reinstatement.

4 10. The parties agree that facsimile copies of this
5 Stipulation, including facsimile signatures of the parties, may
6 be used in lieu of original documents and signatures. The
7 facsimile copies will have the same force and effect as
8 originals.

9 ACCEPTANCE

10 I, Bruce Alexander Von Herzen, M.D., having carefully
11 read the above stipulation and discussed it with my attorney,
12 enter into it freely and voluntarily, and, with full knowledge of
13 its force and effect, do hereby tender for surrender my
14 Physician's and Surgeon's Certificate No. G 28992 to the
15 Division. By signing this Stipulation to surrender my license, I
16 recognize that upon its formal acceptance by the Division, I will
17 lose all rights and privileges to practice as a physician and
18 surgeon in the State of California and I also will cause to be

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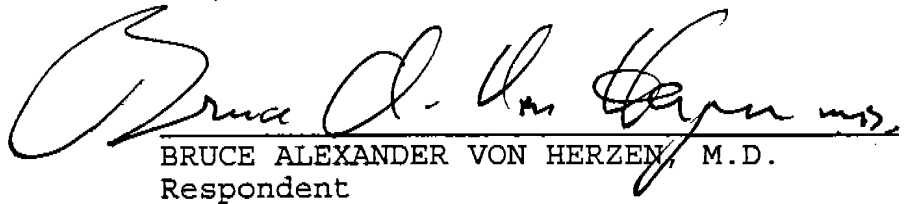
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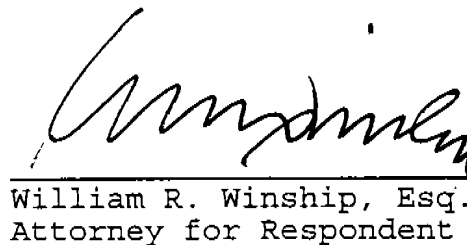
1 delivered to the Division both my licenses and wallet certificate
2 before the effective date of the Decision.

3 DATED: 3-25-2000

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7 
8 BRUCE ALEXANDER VON HERZEN, M.D.
Respondent

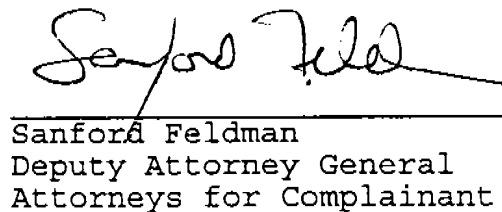
9 We concur in the stipulation and order.

10 DATED: 3-28-00

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14 
15 William R. Winship, Esq.
Attorney for Respondent

16 DATED: 3-29-00

17 BILL LOCKYER, Attorney General
18 of the State of California

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21 
22 Sanford Feldman
Deputy Attorney General
Attorneys for Complainant

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24 sf\c:\dat\stipulation\
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1 BILL LOCKYER, Attorney General
of the State of California
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6 Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO January 19 19 99
BY Diego G. G. G. ASSOCIATE

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9 DIVISION OF MEDICAL QUALITY
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10 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

11 In the Matter of the Accusation)
Against:) Case No. 10-98-89472
12)
13 BRUCE ALEXANDER VON HERZEN, M.D.) ACCUSATION
33911 Via De Agua)
14 San Juan Capistrano, CA 92675)
Physician's and Surgeons's)
15 Certificate No. G 28992)
16 Respondent.)

17
18 Complainant, Ron Joseph, as cause for disciplinary
19 action, alleges:

20 PARTIES

21 1. Complainant is the Executive Director of the
22 Medical Board of California ("Board") and makes and files this
23 Accusation solely in his official capacity.

24 2. On or about March 17, 1995, Physician's and
25 Surgeon's Certificate No. G 28992 was issued by the Board to
26 Bruce Alexander Von Herzen, M.D. At all time relevant to this
27 Accusation, said Physician's and Surgeon's Certificate was in

1 full force and effect. Unless renewed, said certificate will
2 expire on September 30, 2000.

3 JURISDICTION

4 3. This Accusation is made in reference to the
5 following statutes of the California Business and Professions
6 Code ("Code"):

7 A. Code section 2227 provides, in pertinent
8 part, that the Division may revoke, suspend for a period not
9 to exceed one year, or place on probation and order the
10 payment of probation monitoring costs, the license of any
11 licensee who has been found guilty under the Medical
12 Practice Act.

13 B. Code section 2234 provides, in pertinent
14 part, that the Division shall take action against any
15 licensee who is charged with unprofessional conduct.
16 Unprofessional conduct includes, but is not limited to,
17 the following:

18 ". . . .

19 "(b) Gross negligence.

20 "(c) Repeated negligent acts.

21 "(d) Incompetence.

22 "(e) The commission of any act involving dishonesty or
23 corruption which is substantially related to the
24 qualifications, functions, or duties of a physician and
25 surgeon.

26 ". . . ."

27 ///

1 C. Code section 2236 provides, in pertinent
2 part, that a conviction of any offense substantially related
3 to the qualifications, functions, or duties of a physician
4 and surgeon constitutes unprofessional conduct. The record
5 of conviction shall be conclusive evidence only of the fact
6 that the conviction occurred. A plea or verdict of guilty
7 or a conviction after a plea of nolo contendere is deemed to
8 be a conviction within the meaning of this section and
9 Section 2236.1.

10 D. Code section 822 provides, in pertinent part,
11 that if a licensing agency determines that its licentiate's
12 ability to practice his or her profession safely is impaired
13 because the licentiate is mentally ill, or physically ill
14 affecting competency, the licensing agency may take action
15 by revoking the licentiate's certificate or license, by
16 suspending the licentiate's right to practice, by placing
17 the licentiate on probation, or by taking such other action
18 in relation to the licentiate as the licensing agency in its
19 discretion deems proper.

20 E. Code section 125.3 provides, in pertinent
21 part, that the board may request the administrative law
22 judge to direct any licentiate found to have committed a
23 violation or violations of the licensing act, to pay the
24 board a sum not to exceed the reasonable costs of the
25 investigation and enforcement of the case.

26 4. Section 14124.12 of the Welfare and Institutions
27 Code provides, in pertinent part, that: "Upon receipt of written

1 notice from the Medical Board of California, the Osteopathic
2 Medical Board of California, or the Board of Dental Examiners of
3 California, that a licensee's license has been placed on
4 probation as a result of a disciplinary action, the department
5 [of Health Services] may not reimburse any Medi-Cal claim for the
6 type of surgical service or invasive procedure that gave rise to
7 the probation including any dental surgery or invasive procedure,
8 that was performed by the licensee on or after the effective date
9 of probation and until the termination of all probationary terms
10 and conditions or until the probationary period has ended,
11 whichever occurs first. This section shall apply except in any
12 case in which the relevant licensing board determines that
13 compelling circumstances warrant the continued reimbursement
14 during the probationary period of any Medi-Cal claim, including
15 any claim for dental services, as so described. In such a case,
16 the department shall continue to reimburse the licensee for all
17 procedures, except for those invasive or surgical procedures for
18 which the licensee was placed on probation.

19 **FIRST CAUSE FOR DISCIPLINE**

20 (Conviction of a Crime)

21 5. Respondent Bruce Alexander Von Herzen, M.D., is
22 subject to disciplinary action in that he was convicted of a
23 crime substantially related to the qualifications, functions, or
24 duties of a physician and surgeon, in violation of Code section
25 2236. The specifics are set forth below.

26 A. On January 1, 1998, respondent entered the
27 vehicle of J.E. with the intent to drive it away without

1 J.E.'s permission. J.M., a bystander, attempted to stop
2 respondent. While doing so, J.M. was struck by the car door
3 as respondent began driving away. Respondent was arrested
4 and charged with assault with a deadly weapon in violation
5 of Penal Code section 245(a)(1).

6 B. In San Diego Superior Court, Case No. SCE
7 186267, respondent was charged with assault with a deadly
8 weapon, a felony in violation of Penal Code section
9 245(A)(1). On June 9, 1998, upon his plea of guilty,
10 respondent was placed on three years probation with terms
11 and conditions including one year in custody and
12 restitution.

13 SECOND CAUSE FOR DISCIPLINE

14 (Mental Impairment)

15 6. Respondent Bruce Alexander Von Herzen, M.D., is
16 further subject to disciplinary action, revocation, suspension
17 and restriction, pursuant to Business and Professions Code
18 section 822, on account of the fact that he suffers from Schizo-
19 Affective Disorder which impairs his ability to practice medicine
20 safely without restriction.

21 PRAYER

22 WHEREFORE, complainant requests that the Division hold
23 a hearing on the matters alleged herein, and that following said
24 hearing, the Division issue a decision:

- 25 1. Revoking or suspending Physician's and Surgeon's
26 Certificate No. G 28992, heretofore issued to
27 respondent Bruce Alexander Von Herzen;

2. Directing respondent Bruce Alexander Von Herzen, to pay to the Board a reasonable sum for its investigative and enforcement costs of this action, and directing respondent, if placed on probation, to pay the costs of probation monitoring; and,
3. Taking such other and further action as the Division deems appropriate to protect the public health, safety and welfare.

January 19, 1999

Ron Joseph
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

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